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CONGRESSIONAL UPDATE

Negotiations continue among Congressional Democrats over how to pass the two most significant portions of President Biden's legislative agenda: (1) the bipartisan Senate-passed \$1.2 trillion infrastructure bill, and (2) a partisan reconciliation package, in excess of \$3 trillion. As we look at likelihood of passage, the House is set to consider the infrastructure bill today, October 1, while the reconciliation bill is dead on arrival in the Senate where Senators Manchin (D-WV) and Sinema (D-AZ) are unlikely to support a reconciliation package above \$1.5 trillion.

Last weekend, the House Budget Committee approved the Democratic-led budget reconciliation package which includes a host of significant tax increases as part of the \$3 trillion+ reconciliation bill. To accomplish the President's clean energy and social policy goals, the bill raises revenue from a variety of sources, including by doubling the excise tax on tobacco and nicotine products; raising the top personal income tax rate to 39.6% from 37%; increasing the capital gains rate to 25% from 20% (well below President Biden's request of a capital gains increase to 39.6%); raising the corporate tax rate to 26.5% from 21%; reducing the threshold of eligibility for estate taxes to \$12 million for married filers, down from the current \$24 million; and phasing out Section 199A deductions.

The burdensome legislation takes direct aim at EMA members by doubling the excise tax on tobacco and nicotine products and expands the current subsidization of electric vehicles (EVs). Additionally, the partisan Democratic legislation would raise the top personal income tax rate to 39.6% from 37%; increase the capital gains rate to 25% from 20% (well below President Biden's request of a capital gains increase to 39.6%); rolls back President Trump's corporate-tax rate – bringing the top rate to 26.5% from 21%; reduces the threshold of eligibility for estate taxes to \$12 million for married filers, down from the current \$24 million; and phases out Section 199A deduction. The reconciliation process is far from over as it will face significant hurdles in the Senate where moderate Democrats are expected to push back on social policies and the overall price tag.

Specifically, the partisan House bill proposes \$10 billion for transportation electrification which includes installing electric vehicle charging stations in residential areas; the electrification of medium and heavy-duty vehicles, electric vehicle battery recycling for these vehicles; and the creation of multiuse charging hubs for a range of electrified vehicles. \$2 billion is set aside for adding more electric vehicle charging stations to workplaces, publicly accessible areas and multiunit housing; while a further \$1 billion is reserved exclusively for the same project around public housing with an outreach program about the benefits of electric vehicles attached as well. This additional EV infrastructure funding violates President Joe Biden's pledge not to "double dip" in programs already settled as part of the Senate's bipartisan infrastructure bill (BIB).

On the heating fuels front, the bill provides \$3.5 billion through December 31, 2031 to incentivize the purchase of electric heat pumps through federal rebates known as the "High Efficiency Electric Home Rebate Program" (HEEHRP). It also provides additional incentives for contractors who carry about electrification conversions. Unfortunately, the HEEHRP is limited to purchasers of new heating appliances powered by electricity while not recognizing clean renewable biodiesel used for heating which can achieve far greater reductions in greenhouse gas emissions than any alternatively powered heating appliance on the market today, including heat pumps.

The House reconciliation bill also extends the \$1 per gallon biodiesel blender's tax credit through December 31, 2031 and includes a new \$1.25 credit plus one additional cent for each CO2 percentage drop for sustainable aviation fuel. It

includes \$960 billion to push E10 and B20 plus blends into the motor and heating fuels market. It is double the amount lawmakers proposed earlier this year. The program is expected to offer cost-sharing grants of up to 75 percent to marketers to upgrade existing UST system infrastructure and pumps to sell higher biofuel blends as well as to build and retrofit traditional and pipeline biodiesel terminal operations and home heating oil distribution centers. The bill also extends (through December 31, 2031) and increases the 25C credit for energy efficiency improvements from \$600 to \$1,200. Oilheat boilers and furnaces that meet or exceed the highest efficiency tier established by the Consortium for Energy Efficiency still qualify for the 25C credit. Unfortunately, the budget reconciliation's tax increases on businesses will impact energy marketers' ability to expand biofuel infrastructure.

Given Senators Manchin and Sinema's opposition to both the cost of the package and specific provisions (particularly some of the climate change provisions for Senator Manchin), Speaker of the House Nancy Pelosi (D-CA), House Democratic moderates, and House Democratic progressives spent the week negotiating with Senate Democrats and the White House.

Negotiations over the reconciliation package coincided with a promise made to House Democratic moderates by Speaker Pelosi to hold a vote on the Senate-passed bipartisan infrastructure bill this week. House Democratic progressives promised to block an infrastructure package without an agreement with the Senate on reconciliation, leading Speaker Pelosi (as of Thursday, September 30) to delay a vote on infrastructure. Congressional leaders are now working with the White House to finalize a framework for reconciliation that would be acceptable to Senators Manchin and Sinema as well as House progressives.

Also this week, Congress passed, and President Biden signed a Continuing Resolution (CR), which is a temporary measure to keep the government open for nine weeks after the September 30th expiration date. Congress is still negotiating a full appropriations package that will fund the government for FY 2022.

GROUPS ASK OSHA FOR ANSWERS ABOUT NEW VACCINE MANDATE

This week, EMA joined NACS, NATSO and SIGMA in a [letter](#) to OSHA Acting Assistant Secretary Jim Frederick concerning questions in response to President Biden's executive order (EO) directing businesses with more than 100 employees to either require workers to be vaccinated against COVID-19 or produce a negative COVID-19 test weekly. The Emergency Temporary Standard (ETS) may complicate already fragile labor markets and create challenges for many businesses that are currently struggling to remain open. The groups urged OSHA to address the specific questions we raised in the ETS or forthcoming guidance, and to provide clear and complete guidance to employers, so they know what OSHA expects.

HOUSE JUDICIARY COMMITTEE LEGALIZES MARIJUANA

The House Judiciary marked-up and approved H.R. 3617, the Marijuana Opportunity Reinvestment and Expungement (MORE) Act of 2021. Last Congress, the House passed similar legislation in a bipartisan manner, however, the Senate did not consider the legislation.

The MORE Act would make three major changes to federal law. It would: remove marijuana, or cannabis, from the list of federally controlled substances; authorize the provision of resources, funded by a federal tax on marijuana sales, to address the needs of communities that have been seriously impacted by the War on Drugs, including increasing the participation of communities of color in the burgeoning cannabis market; and provide for the expungement of Federal marijuana convictions and arrests.

Given that Democrats now control the Senate, there is a slim chance the legislation could move forward, however, the bill in its current form would need changes. The wild card is also President Joe Biden. While he supports more modest reforms such as decriminalizing cannabis, expunging prior records and letting states set their own marijuana policies, he doesn't support legalizing marijuana at the federal level. It's probably safe to say that this will continue to remain a political issue over the next several years.

EMA URGES EPA TO LOWER CORN ETHANOL MANDATE

This week, EMA sent another letter to the EPA requesting urgent action to reduce the corn ethanol mandate. The Administration is under significant pressure to provide relief from labor union leaders and Senators from his home state of Delaware. The EPA is currently considering whether to lower RFS blending obligations.

EMA fully believes in renewable fuels and their importance in the liquid fuels market. However, if the RFS continues to go unchecked, the majority of retail sites across the country will be unable to legally sell the new product due to non-compatible underground storage tank (UST) system equipment. To point out the facts of infrastructure compatibility issues is not being anti-ethanol, the letter said. Click [here](#) to read the letter.

EMA JOINS COALITION IN LETTER TO SENATE COMMITTEE MEMBERS ON DATA PRIVACY LEGISLATION

On Wednesday, EMA joined 18 national trade group members of the Main Street Privacy Coalition in sending a letter to Chair Cantwell and Ranking Member Wicker with our views on federal data privacy legislation in connection with the Senate Commerce Committee hearing on “Protecting Consumer Privacy.” Click [here](#) to read the letter.

MEMBERS AND ASSOCIATES - YOU CAN CONTRIBUTE!

WPMA welcomes industry-related articles for publication in the WPMA News magazine. All members and associate members of WPMA are eligible to submit items for publication. Articles will be included as space allows, and no self-promoting articles or editorials will be accepted. WPMA reserves the right to edit and make adaption of such contributions to accommodate the magazine’s space and style. Please submit articles or content to Jan Roothoff, WPMA Administration/IT Director at janr@wpma.com, or mail to Jan Roothoff, Western Petroleum Marketers Association, PO Box 571500, Murray, UT 84157-1500. Submissions for the Winter edition of WPMA News magazine are due before November 1st. Later submissions will be considered for the Spring issue.

MARK YOUR CALENDARS FOR UPCOMING EVENTS

December 2, 2021 – Washington (WIED) Holiday Party – Little Creek Resort & Casino – Shelton, WA

December 14, 2021 – Oregon (OFA) Holiday Event – Portland Golf Club – Portland, OR

February 22-24, 2022 – WPMA Convention & Expo – Mirage Hotel– Las Vegas, NV

April 25, 2022 – Hawaii (HPMA) Golf Tournament – Ko Olina Golf Club – Kapolei, HI

May 5-6, 2022 – Nevada (NPM&CSA) Big Dogs – Las Vegas, NV

June 7-8, 2022 – Montana (MPMCSA) Convention – Fairmont Hot Springs Resort – Fairmont, MT

June 20-22, 2022 – Washington (WIED) Convention – Suncadia Resort – Cle Elum, WA

July 17-19, 2022 – Oregon (OFA) Annual Convention – Sunriver Resort – Sunriver, OR

August 3-5, 2022 – Idaho (IPM&CSA) Convention – Coeur d’Alene Resort – Coeur d’Alene, ID

August 22-24, 2022 – New Mexico (NMPMA) Convention – Sandia Resort & Casino – Albuquerque, NM

September 14-16, 2022 – Utah (UPMRA) Convention – Sheraton Park City Hotel – Park City, UT

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Petro Pete: “My mind is like my internet browser – 19 tabs are open, 2 of them are frozen and I have no idea where the music is coming from.”

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